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11 **IN THE UNITED STATES DISTRICT COURT**

12 **FOR THE WESTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION**

13 SCOTT DENING,

14 Plaintiff,

15 v.

16 GLOBE LIFE AMERICAN INCOME
17 DIVISION, et al.,

18 Defendants.

Case No. 1:23-cv-01117-HYJ-PJG

Assigned to the Hon. Hala Y. Jarbou

**NON-PARTY WITNESS DOMINIC
BERTINI'S OBJECTIONS TO PLAINTIFF
SCOTT DENING'S SUBPOENA TO
TESTIFY AT A DEPOSITION IN A CIVIL
ACTION AND FOR PRODUCTION OF
DOCUMENTS**

Pursuant to Rule 45(d)(2)(B) of the Federal Rules of Civil Procedure, non-party Dominic Bertini (“Bertini”) submits these objections to plaintiff Scott Denning’s subpoena to produce documents and testify at a deposition (the “Subpoena”), dated April 3, 2024, in the above-entitled action, as follows:

GENERAL RESPONSE AND CONTINUING OBJECTIONS

Mr. Bertini asserts each of the following objections to each Subpoena request. These objections are incorporated into each specific response set forth below, whether specifically referenced, and are neither waived nor limited by any specific response.

1. These responses are based on Mr. Bertini’s perception and understanding of the nature and type of information requested and on information presently known and available to Mr. Bertini and his attorneys of record.

2. The Subpoena is invalid because it was not properly served upon Mr. Bertini.

3. The Subpoena is invalid under Rule 45(c)(1)(A) of the Federal Rules of Civil Procedure because it fails to specify a deposition location “within 100 miles” of Mr. Bertini’s residence, employment, or location where Mr. Bertini regularly transacts business in person. Instead, the subpoenaing party’s counsel is located in another state: “436 Seventh Avenue, Koppers Building Suite 700, Pittsburgh, Pennsylvania 15219.”

4. Pursuant to the Case Management Order, the Subpoena is untimely. *See* Dkt. No. 18 (“All interrogatories, requests for admissions, and other written discovery requests must be served *no later than thirty days before the close of discovery*”) (emphasis added). Moreover, the Court has since denied Mr. Denning’s motion to extend the discovery deadline. *See* Dkt. No. 57.

5. Mr. Bertini objects to the requests to the extent they are vague, ambiguous, overbroad, unduly burdensome, or not proportional to the needs of the case. For that reason, the Subpoena violates Rule 45(d)(1) of the Federal Rules of Civil Procedure as responding to it would impose an excessive, undue burden and expense on Mr. Bertini.

6. Mr. Bertini objects to the Subpoena because Mr. Denning has not taken steps to avoid imposing undue burden or expense on Mr. Bertini in responding to the Subpoena.

1 7. Mr. Bertini objects to every request to the extent that it seeks information
2 protected from disclosure by the attorney-client privilege, the work product doctrine, or any
3 other statutory or common law limitation on disclosure.

4 8. Mr. Bertini objects to each request to the extent it seeks documents or
5 information in the possession, custody, or control of Mr. Dening, the defendants, or other
6 third parties.

7 9. Mr. Bertini objects to each request to the extent it seeks to require Mr. Bertini
8 to respond on behalf of any other person or entity or seeks information not within Mr.
9 Bertini's possession, custody, or control.

10 10. Mr. Bertini objects to each request to the extent it seeks information already in
11 the possession of Mr. Dening.

12 11. Mr. Bertini objects to each request to the extent they are not limited to a
13 reasonable time frame.

14 12. Without obligating himself to do so, Mr. Bertini reserves the right to
15 supplement, revise, modify, or amend its responses or objections and to correct any
16 inadvertent errors or omissions that they may contain, and to rely upon such information in
17 subsequent proceedings, motions, or trial.

18 13. Mr. Bertini objects to the time, place, and manner of production specified in
19 the requests.

20 **SPECIFIC RESPONSES TO DOCUMENT REQUESTS**

21 Subject to and without waiving Mr. Bertini's general response and continuing
22 objections, Mr. Bertini specific responses to the requests are as follows:

1 **REQUEST FOR PRODUCTION NO. 1:**

2 Any and all documents and communications regarding Plaintiff's employment to
3 include roles and responsibilities, performance, compensation, awards, recognition, and
4 bonuses.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

6 Mr. Bertini incorporates his general response and continuing objections above and
7 further objects to this request as follows: Mr. Bertini objects to this request because it is
8 overly broad as it lacks any time parameters. Mr. Bertini further objects to this request
9 because it seeks documents that are beyond the scope of this action and seeks information
10 that is neither admissible nor reasonably calculated to lead to the discovery of admissible
11 evidence. The request seeks *any* and *all* documents and communications regarding Mr.
12 Dening's employment without regard to the specific subject matter or allegations in the
13 complaint. Mr. Dening has made no effort to tailor this request to any allegations, claims,
14 or defenses presented in this action. This request seeks documents not in Mr. Bertini's
15 possession, custody, or control. This request seeks documents and communications that are
16 obtainable from the parties to this action or other third parties, which is more convenient,
17 less burdensome, and less expensive.

18 **REQUEST FOR PRODUCTION NO. 2:**

19 Any and all documents and communications related to unethical or fraudulent
20 business practices conducted by or allegedly conducted by Defendants, their employees,
21 agents or other representatives, former and current, from May of 2012 to May of 2023
22 including but not limited to: a) customer complaints, employee complaints, agent
23 complaints b) responses to said complaints c) investigations related to said complaints and
24 d) internal communications and documents related to said complaints and investigations.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

26 Mr. Bertini incorporates his general response and continuing objections above and
27 further objects to this request as follows: Mr. Bertini objects that the time period referenced
28 in this request ("May of 2012 to May of 2023") is overly broad. Mr. Bertini further objects

1 to this request because it seeks documents that are beyond the scope of this action and seeks
2 information that is neither admissible nor reasonably calculated to lead to the discovery of
3 admissible evidence. Mr. Dening has made no effort to tailor this request to any allegations,
4 claims, or defenses presented in this action. This request seeks documents not in Mr.
5 Bertini's possession, custody, or control. This request seeks documents and
6 communications that are obtainable from the parties to this action or other third parties,
7 which is more convenient, less burdensome, and less expensive. The request is fatally
8 vague, ambiguous, and uncertain as to the term(s) "unethical or fraudulent business
9 practices." This request is unintelligible.

10 **REQUEST FOR PRODUCTION NO. 3:**

11 Any and all documents and communications related to unethical or fraudulent
12 business practices conducted by or allegedly conducted on behalf of the following AIL
13 agencies: Foti Agency, Zach Hart Agency, Schriever Organization, Arias Organization,
14 Henderson Locker Agency, AO Globe Life Agency, and Moore Organization from May of
15 2012 through May of 2023.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

17 Mr. Bertini incorporates his general response and continuing objections above and
18 further objects to this request as follows: Mr. Bertini objects that the time period referenced
19 in this request ("May of 2012 to May of 2023") is overly broad. Mr. Bertini further objects
20 to this request because it seeks documents that are beyond the scope of this action and seeks
21 information that is neither admissible nor reasonably calculated to lead to the discovery of
22 admissible evidence. The request seeks *any* and *all* documents and communications
23 regarding "unethical or fraudulent business practices" by several entities without regard to
24 specific subject matter or allegations in the complaint. Mr. Dening has made no effort to
25 tailor this request to any allegations, claims, or defenses presented in this action. This
26 request seeks documents not in Mr. Bertini's possession, custody, or control. This request
27 seeks documents and communications that are obtainable from the parties to this action or
28 other third parties, which is more convenient, less burdensome, and less expensive. The

1 request is fatally vague, ambiguous, and uncertain as to the term(s) “unethical or fraudulent
2 business practices.” This request is unintelligible.

3
4 Dated: April 22, 2024

BIENERT KATZMAN
LITTRELL WILLIAMS LLP

5
6 By: 

7 John L. Littrell
8 Carlos A. Nevarez
9 Attorneys for Dominic Bertini
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CERTIFICATE OF SERVICE

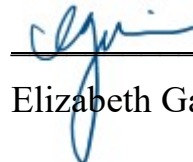
I declare that I am a citizen of the United States and I am a resident and employed in Orange County, California; that my business address is 903 Calle Amanecer, Suite 350, San Clemente, CA 92673; that I am over the age of 18 and not a party to the above-entitled action.

I am employed by a member of the United States District Court for the Central District of California, and at whose direction I caused service of the foregoing document entitled **NON-PARTY WITNESS DOMINIC BERTINI'S OBJECTIONS TO PLAINTIFF SCOTT DENING'S SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION AND FOR PRODUCTION OF DOCUMENTS** on all interested parties in this action by the method indicated below at the address stated on the attached service list.

[X] BY ELECTRONIC TRANSMISSION: A PDF version of this document was transmitted from e-mail address egarcia@bklwlaw.com to the persons at the e-mail addresses listed in the service list below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] BY MAIL: I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 22, 2024 at Los Angeles, California.


Elizabeth Garcia

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